Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
1998 Biennial Regulatory Review-	)	
Streamlined Contributor Reporting	)	
Requirements Associated with Administration	)	CC Docket No. 98-171
of Telecommunications Relay Service, North	)	
American Numbering Plan, Local Number	)	
Portability, and Universal Service Support	)	
Mechanisms	)	

COMMENTS OF THE
INTERNATIONAL PREPAID COMMUNICATIONS ASSOCIATION, INC.
ON SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

INTRODUCTION

The International Prepaid Communications Association, Inc. ("IPCA"), by its attorneys and pursuant to the Commission's *Public Notice*, submits these comments on modifications under consideration by the Commission to the contribution methodology used to ensure the long-term viability of universal service.

The IPCA is the national trade association for prepaid telecommunications industry. Its approximately 180 members include most of the largest providers of prepaid phonecards as well as prepaid wireless service providers, smaller phonecard issuers, distributors and suppliers to the industry. In addition to representing the industry before various federal, state and local regulatory and legislative bodies, the IPCA offers a consumer ombudsman service and publishes consumer educational material.

The prepaid telecommunications industry provides tens of millions of consumers with their lowest-cost option for long distance calling. The consumer interest group, Telecommunications Research and Action Center ("TRAC") recently noted that "residential long distance service is becoming increasingly more expensive" and encouraged consumers to "[t]ake advantage of low cost alternatives" such as "prepaid calling cards with low per minute rates and no per call surcharges..." (TRAC News Release dated January 28, 2003, attached hereto). In its "Consumer Tip of the Week" section of its website, the Florida Public Service Commission states, "Prepaid calling cards can be a great way to save money on toll calls…."[1]

Perhaps the largest single group of phone card users are those who, without phone cards, would be without reasonable cost telecommunications. The consumers comprise a large portion of those Congress intended to aid when it established the Universal Service program. Universal Service Fund contribution method modifications that would discriminate against our industry would directly disadvantage those consumers.

The IPCA has participated in this proceeding on behalf of its members, with the exception of Verizon, Sprint and Qwest, which have filed their own comments in support of USF contribution mechanisms that differ from those supported by the IPCA in this proceeding. The Commission has already received a wide range of comments in support of the adoption of a connection-based mechanism in place of an end-user revenue-based mechanism. It has noted that "…a number of parties across various industry segments, as well as four out of five state members of the Joint Board, have supported adoption of a connection-based assessment methodology and have proposed

[1] *See,* http://www.floridapsc.com/consumers/tips/output.cfm?tip=2003%2CO2%2CO9

their own variations of connection-based proposals."[2] The Commission itself has expressed its concern about the efficacy of the modified revenue-based methodology that it adopted, subject to its development of a further record on connection-based alternatives.[3] The IPCA submits that the modifications made by the Commission to its revenue-based assessment mechanism are insufficient to ensure the long-term viability of universal service as the telecommunications market evolves. Further modifications to a revenue-based assessment mechanism would not eliminate this shortcoming and would only perpetuate the problems arising out of revenue-based assessment mechanisms that the Commission has already recognized.

The Commission has requested comments on three alternative connection-based support mechanisms: (1) a connection-based contribution methodology that imposes a minimum revenue-based contribution obligation on all interstate telecommunications carriers, and a flat charge for each end-user connection that can be offset against the carrier's revenue based contribution, depending on the nature or capacity of the connection; (2) assessment of all connections based purely on capacity (without regard to distinctions between residential/single-line business and multi-line business connections); and (3) assessment of providers of switched connections based on their number of working telephone numbers.[4]

In this proceeding, the Commission has an opportunity to further investigate and adopt a connection-based universal service support mechanism that will satisfy its goals

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[2] *Report and Order and Second Notice of Proposed Rulemaking,* CC Docket Nos. 96-45, 98-171 (December 13, 2002) at ¶70.

[3] Id. at ¶69.

4 *Second Further Notice of Proposed Rulemaking* at ¶¶ 72, 75-100.

to: (1) ensure the stability and sufficiency of the Universal Service Fund as the telecommunications market evolves; (2) ensure that contributors are assessed in an equitable and nondiscriminatory manner; (3) provide certainty to marketplace participants and minimize the regulatory costs of complying with universal service obligations; and (4) ensure that the recovery process is fair, reasonable and readily understood by consumers. Because it best facilitates the Commission's achievement of these goals, the IPCA supports the Commission's adoption of a connection-based universal service support mechanism, as proposed by the Coalition for Sustainable Universal Service ("CoSUS"). Hybrid proposals, such as the SBC/BellSouth proposal, and the proposal that all carriers be assessed a revenue-based minimum contribution that may be offset against connection-based contributions, are not competitively neutral-they are inequitable and discriminatory and perpetuate the many recognized problems associated with the revenue-based approach and harm consumers. Similarly, a revenue-based assessment methodology that applies not only to end-user revenues but also to wholesale revenues would suffer from these same legal, economic and administrative deficiencies.

COMMENTS

I. A Connection-Based Universal Service Support Mechanism Should be Adopted by the Commission

The IPCA supports the Commission's adoption of a connection-based universal service support mechanism in place of the existing revenue-based methodology. The implementation of a connection-based methodology will provide for a more stable universal service funding mechanism that is easier to administer than the existing mechanism, thereby promoting the goal of ensuring the delivery of affordable telecommunications services to all Americans.

The IPCA filed comments in this docket on April 11, 2002, in which it supported the Commission's adoption of a connection-based universal service funding mechanism in place of the then existing revenue-based methodology. As explained in those comments, adoption of a connection-based universal service funding mechanism "…would eliminate direct liability from telecom service providers who are not connection-based interstate telecom providers. Pure resellers of telecom, such as prepaid phonecard issuers and others should not be subject to the USF levies….These resellers do not provide connections to the public network, but they would pay indirectly through those connection-based providers that they work with."

Adoption of a connection-based methodology would provide a sufficient and more predictable funding source for universal service. The number of connections historically has been more stable than end-user revenues. A connection-based methodology also eliminates the need to distinguish between interstate and intrastate revenues or revenues from telecommunications and non-telecommunications services. The adoption of a connection-based methodology would be more economically efficient and easier to administer for carriers as well as for the Commission. A connection-based assessment methodology would be easier to understand by consumers than either a revenue-based methodology or any hybrid approach that mixes connection-based and revenue-based approaches.

II. Adoption of a Connection-Based Support Methodology Would be Consistent with Section 254(d) of the Telecommunications Act and the Commission's Objectives

The Commission has requested comments on specific measures that it should take to ensure that a connection-based methodology would be consistent with Section 254(d) of the 1996 Telecommunications Act (the "Act"), which states that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."[5]

A. Section 254(d) Would be Satisfied Even Where Some Carriers Do Not Pay a Connection-Based Assessment

A connection-based support mechanism is consistent with Section 254 (d) of the Act. Arguments by ILECs that a per connection support mechanism would violate Section 254 (d) are predicated on the assumption that service providers who serve a customer, but do not provide the actual end user connection to that customer, will not be required to contribute. All carriers will be required to submit universal service fees when they provide the end user connection.

The IPCA endorses the comments previously filed with the Commission by CoSUS in support of its position, shared by the IPCA, that a connection-based support mechanism is non-discriminatory and in accord with Section 254 (d).[6] "…Section 254(d) of the Act does not preclude the Commission from adopting an equitable and non-discriminatory formula that applies to all telecommunications carriers even if the formula would result in some carriers making little or no contribution."[7] Accordingly, the

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[5] 47 U.S. C. §254(d). The Commission has adopted "the additional principle that federal support mechanisms should be competitively neutral, neither unfairly advantaging not disadvantaging particular service providers or technologies." *Second Further Notice of Proposed Rulemaking* at ¶7, note 15.

[6] CoSUS Comments dated April 22, 2002 at 82-97.

Commission need not marry a connection-based support mechanism with a revenue-based minimum contribution mechanism in order to implement a connection-based methodology that passes legal muster.

Section 254(d) of the Act expressly authorizes the Commission to adopt a universal service support mechanism that excludes a carrier or class of carriers if their contribution would be *de minimis.* The second sentence of Section 254 (d) provides that the Commission may

> exempt a carrier or class of carriers from [the contribution] requirement if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be *de minimis.* [8]

Under Section 254(d), the Commission is free to adopt a connection-based, universal service support mechanism that exempts a carrier or class of carriers whose telecommunications activities do not involve connections at all or involve them only to a small degree, such that a connection-based formula would yield a *de minimis* contribution.[9] Section 254(d) of the Act has not been interpreted and applied by the Commission in the past so as to require that every carrier, regardless of classification, make a positive contribution.[10] Just as the Commission has seen fit in the past to adopt a revenue-based universal service support mechanism that leads to "carrier's carriers"

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[7] *Id.* at 84.

[8] 47 U.S.C. §254 (d).

[9] *See,* April 22, 2002 Comments of CoSUS at 88-91. As explained *infra*, the Commission's adoption of a connection-based methodology for universal service funding best meets the objectives of Congress and the Commission, avoids the substantial problems that have demonstrably arisen under a revenue-based methodology and also avoids the problems that would arise under the hybrid models under consideration.

[10] CoSUS made the point in its April 22, 2002 Comments at 86,87, note 189. that a "carrier's carrier" was not required to make any universal service contribution under the then current end user interstate and international telecommunications revenue-based formula.

without end user revenues making no contribution, so may the Commission now adopt a connection-based universal service support mechanism that results in a carrier that provides no connections making no contribution. In sum, it is reasonable for the Commission to adopt an assessment mechanism under which carriers that provide no connections would make no contributions, just as carriers providing very few connections would make no contributions.[11] By assessing the contribution on the connection and not on the service being provided over that connection, the CoSUS approach *avoids* the discrimination that would occur if two carriers offer competing services, but the assessment is placed on only one of the carriers' services or is placed on such services at a higher level, because then one carrier has a cost imposed upon it that the other carrier does not, and the harmed carrier must either add charges that its competitor does not have to add to the price of the competing service or absorb costs that its competitor does not have to absorb. For example, where an ILEC provides a connection and also offers a prepaid calling service in competition with the prepaid calling service of an IPCA member which does not provide connections, the ILEC would suffer no competitive harm in the prepaid calling market from the imposition of a connection-based assessment and the recovery of that assessment from its connection-based service. In contrast, the IPCA member without connections would be subject to revenue-based assessments under hybrid assessment proposals that would force it to impose revenue-based recovery mechanisms upon a prepaid calling service customer that would also be subject to the ILEC's connection-based universal service recovery mechanism. The ILEC would gain

[11] CoSUS Comments at 90,91.

an unfair competitive advantage by being able to recover its universal service assessments from connection-based services and offering its own long distance (prepaid or postpaid) calling service without a universal service recovery component. No such competitive problem would exist as between competing providers of the connection, since each provider would bear the same contribution obligation for the connection.

In contrast, the CoSUS proposal results in different industry participants providing the same service to the same customer in the same market bearing the same universal service assessment burden. As a result, it is a competitively neutral and non-discriminatory methodology.

In addition, the CoSUS proposal *avoids* the discrimination of carriers providing the same service over different technologies being subjected to differing universal service assessments (e.g., wireless versus wireline, or calling card versus traditional long distance).

B. Holders of the Largest Market Share in Prepaid and Postpaid Calling Services Also Would Contribute to Universal Service Funding Under a Connection-Based Assessment Methodology

As noted by the IPCA in its June 14, 2002 *ex parte* comments, all interstate carriers will be required to submit universal service fees when they provide the end user connection. The large interexchange carriers, such as AT&T, WorldCom and Sprint, would, as CoSUS has indicated, all pay substantial connection-based universal service assessments.[12] Even those carriers that provide predominantly dial-around services more often than not provide some end user connections and will also contribute. Indeed, the debit card providers with the largest percentage of market share in the prepaid industry

[12] CoSUS Reply Comments dated May 13 , 2002 at p.57

are traditional IXCs and LECs. According to a 2000 Frost & Sullivan study, the companies with the greatest calling card market share are those who also provide end user connections, with AT&T, Sprint and WorldCom holding approximately 67% of the total wireline calling card market, and RBOCs and other IXCs that provide interstate connections, including Verizon, Qwest, Ameritech (now part of SBC), SBC, IDT and Cable & Wireless as other predominant market share holders.[13] RBOC and IXC market dominance in the calling card market make it clear that the effects of the discriminatory hybrid proposals would work to eliminate smaller non-connection based providers from the calling card marketplace.

C. Many Other Service Providers That do not Provide End User Connections Will Contribute to the Universal Service Fund Under a Connection-Based Methodology

Further, many IPCA members who do not provide traditional wireline connections do provide other assessable services and will contribute to the universal service fund under a connection-based assessment methodology.[14]

D. A Connection-Based Assessment Methodology Would Ensure that the Recovery Process is Readily Understood By Consumers

A connection-based universal service assessment methodology, as proposed by CoSUS, would ensure that the recovery process is fair, reasonable and readily understood by consumers. This connection-based methodology would avoid scenarios under which a consumer would pay multiple universal service assessments for the same call and replace

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[13] *U.S. Wireline Card Calling Services Markets*, Frost & Sullivan (2000), pp. 4-12. Calculation of market share includes both prepaid and postpaid wireline calling card services. According to Frost & Sullivan, AT&T, MCI and Sprint together have a combined 83% market share in the postpaid wireline calling card market and a 53% market share in the prepaid market.

[14] *See,* June 14, 2002 *Ex Parte* filing of IPCA, Attachment 3 (attached hereto).

it with a single, readily understood assessment. Consumers also will benefit because a connection and capacity-based approach will promote the use of more uniform and predictable methods of recovery from end users, foster sufficient universal service funding and avoid imposing inequitable burdens on any particular class of end user.

In sum, the adoption of a connection-based assessment methodology (1) rids the industry of the problems that have been experienced under the revenue-based assessment methodology; (2) ensures a more stable and sufficient level of universal service funding; (3) ensures that contributors are assessed in an equitable and non-discriminatory manner; and (4) ensures a recovery process that is readily understood by consumers.

III. Specific Measures for Implementing a Connection-Based Universal Service Support Mechanism

A. The Commission Should Adopt the CoSUS Proposal Because it Will Best Meet the Commission's Universal Service Support Goals

The IPCA favors the Commission's adoption of the connection-based Methodology proposed by CoSUS. Under the CoSUS proposal, universal service contributions would be paid according to a formula based on the number, type and capacity of connections the contributing entity provides to retail customers to connect those customers to a public network. Every interstate telecommunications carrier would be subject to the formula, and would contribute for all connections provided by that carrier between a retail customer's premises and a public network that are used to provide stand-alone interstate telecommunications or telecommunications services. Under this proposed formula, when a carrier does not provide the direct connection to the customer, but is connected to customers through an intervening common or private carrier, only the carrier providing the direct retail customer connection and not the transiting carrier would pay the contribution. Mobile carriers would be assessed based on the number of activated handsets in service.[15]

CoSUS has previously explained in detail how its connection-based proposal meets the objectives of the Commission and satisfies the requirements of Section 254(d) of the Communications Act. First, by adopting a connection-based methodology, the CoSUS proposal would put an end to the problems that have been experienced under the revenue-based assessment method. Reductions in interstate revenues, problems with the characterization of revenues as interstate or intrastate and attendant burdens of administration have resulted in a universal service funding "death spiral" that cannot be fully alleviated through stopgap measures to repair the revenue-based assessment methodology. Connections are more stable than interstate revenues and will produce a more sufficient universal service fund than the revenue-based assessment methodology.

Second, adoption of a connections-based assessment advocated by CoSUS would ensure that contributors are assessed in an equitable and non-discriminatory manner. This approach eliminates inequities that arise out of the classification or misclassification of revenues between interstate and intrastate services and thereby produces a more equitable result for contributors.

Third, the CoSUS proposal would minimize the regulatory costs associated with compliance with universal service obligations by avoiding the complicated exercises involved in revenue forecasts. It also would minimize deadweight administrative costs, given the relative ease with which carriers may identify, bill and recover charges tied to network connections, as opposed to interstate telecommunications revenues.

[15] CoSUS Comments dated April 22, 2002 at 10-13, for this and further detail on the CoSUS proposal.

Fourth, the connection-based CoSUS proposal is easier for consumers to understand than the more complicated revenue-based assessment method, which can result in multiple universal service assessments being imposed by several telecommunications service providers in connection with the same call. A reduction in the number of universal service-related charges faced by the consumer would reduce consumer confusion. It also would promote a more informed consumer selection of services by facilitating a comparison of carrier service prices.

B. Relative Contributions by Industry Segments is not a Valid Criterion for Evaluating the Merits of an Assessment Method

In evaluating the alternative connection-based assessment approaches noted in its *Second Further Notice of Proposed Rulemaking*, the Commission should not consider as a factor the relative contribution obligations of different industry segments under each approach. That is not a criterion that stems from the requirements of Section 254(d) and is not a criterion for the determination of the relative competitive neutrality of different assessment methods.[16] "The relevant inquiry as between different industry participants is the relative burden on competitors seeking to provide the same service to the same customer in the same market."[17] Accordingly, by placing the contribution obligation on the end-user connection and not on any particular service provided by the connection, the Commission assures that no services reap, or are encumbered by, artificial regulatory distortions, allowing service providers to compete in the market on their relative merits rather than regulatory arbitrage.

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[16] CoSUS Comments dated April 22, 2002 at 44,45.

[17] *Id.* at 45.

IV. A Minimum Contribution by All Carriers is not Required And Would Frustrate the Objectives of the Commission

It is not necessary for the Commission to require a minimum contribution obligation on all interstate telecommunications carrier and a flat charge for each end user connection in order for a connection-based assessment method to pass statutory muster.[18] Section 254(d)'s *de minimis* provisions obviate the need for such a minimum contribution, as the Commission has recognized.[19] Further, as explained above, Section 254(d) permits the Commission to adopt an assessment methodology that does not result in every carrier directly contributing an assessed amount.

In contrast, the adoption of a policy that would allow providers of connections to offset their connection-based assessments against their minimum revenue-based contribution is undesirable. It would violate the Commission's competitive neutrality criterion as well as the equitable and non-discrimination criteria found in Section 254(d) of the Act. If a minimum charge were required, it should not be offset by connection-based assessments made by the carrier, but should be in addition to such connection-based assessments. Otherwise, as explained in the IPCA's comments, the assessment mechanism would bias the universal service support system in favor of single providers of multiple service and against service providers without connections, as well as reduce consumer ability to shop for a mix of services from multiple providers. Consumers would be discouraged from shopping for a mix of services if they were faced with multiple universal service fees from a mix of providers, but paid only a single fee to the single provider of the same mix of services.

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[18] *See, Second Further Notice of Proposed Rulemaking* at ¶72.

[19] *Second Further Notice of Proposed Rulemaking* at ¶75.

Adoption of a hybrid approach that features a mandatory minimum contribution based upon carrier revenues also is more burdensome than the revenue-based approach now in place. Under the hybrid approach, carriers would calculate a contribution based on a percentage of their total interstate revenues (i.e., wholesale and retail). In addition to a revenue-based contribution, carriers would collect a per-line fee from their line-based end- users, which they would then use to offset their minimum revenue-based contribution. This hybrid approach forces carriers to engage in the complex and inexact process of forecasting projected recovery from revenues and lines. This exercise is more complex than what carriers are currently required to do under the existing revenue-based approach. This hybrid approach also eliminates all of the economic efficiencies and administrative advantages to be gained through the implementation of a connections-based approach unencumbered by the vestiges of a revenue-based approach.

Moreover, hybrid proposals that would allow providers of connections to offset their connection-based assessments against their minimum contribution would improperly discriminate against those carriers who do not provide connections in favor of those carriers that do. Such a proposal would effectively result in non-line based carriers bearing assessments based on revenues, while line-based carriers would be assessed on the basis of the number and capacity of their connections so long as they were able to fully cover their revenue-based contributions with the connection-based contribution levels.

Especially harmful are the anti-competitive effects on the dial-around industry and consumers of their services. If the Commission allows line-based carriers to offset their minimum contributions with fees collected on a per-line basis, it would be permitting those carriers with large, line-based business to pass through their minimum contributions to line-based customers, while dial-around carriers would be forced to collect their contributions from dial-around customers through their dial-around services. Dial-around businesses would be competitively disadvantaged by the ability of the large, line-based carriers to avoid the need for pass-throughs of universal service contributions to their dial-around customers.

The revenue-based minimum contribution requirement as outlined by the Commission is further flawed by the fact that the minimum requirement would be based on all interstate telecommunications revenues, not end-user telecommunications revenues.[20] Wholesale carriers with no end-user revenues would be required to contribute and would be subject to the double counting of revenues problem that the Commission has previously acknowledged.[21]

V. Hybrid Proposals, Such as the SBC/BellSouth Hybrid Proposal, are Fraught with Legal, Equitable and Administrative Problems that the Commission May Avoid by Adopting the CoSUS Proposal

A. General Problems with Hybrid Proposals

The Commission should reject the type of hybrid proposal suggested by SBC/BellSouth. In its *Second Further Notice of Proposed Rulemaking* at ¶89, the Commission noted that as originally proposed by SBC/BellSouth, "a revenue-based assessment would be applied only to IXCs that do not provide the transport portion of a

[20] *Second Further Notice of Proposed Rulemaking* at ¶78.

[21] *Id.* at ¶79. If the Commission chooses to adopt a revenue-based assessment methodology based on wholesale and retail revenues, it must at the least do so according to a net telecommunications revenues methodology (i.e. gross telecommunications revenues net of payments to other carriers for telecommunications services) as discussed in its original Universal Service Order at ¶¶ 842-850 to avoid double counting of revenues inherent with a gross revenues approach. As the Commission has previously noted, the double counting of revenues distorts competition because it disadvantages resellers.

switched connection on a presubscribed basis (*e.g.,* dial-around providers)."

This type of proposal would apply revenue-based assessments to some carriers (or to some service offerings) and per-line charges to others. As a result, hybrid proposals eliminate or significantly erode the benefits of a connection-based approach and perpetuate the negative aspects of the existing revenue-based approach that the Commission is seeking to avoid.

B. The SBC/BellSouth Hybrid Proposal Should be Rejected

1. The SBC/BellSouth Proposal is Inequitable, Discriminatory and Not Competitively Neutral

The hybrid proposal offered by SBC/Bell South should be specifically rejected. [22] This proposal would discriminate against pure IXCs and other non-line based carriers. The SBC/BellSouth plan, as originally proposed, would apply a revenue-based assessment only to IXCs that do not provide the transport portion of a switched connection on a presubscribed basis (e.g., dial-around service providers). Carriers that provide the transport and/or switched access portions would be assessed based on their number of connections.

As the IPCA noted in its June 6 and June 14, 2002 *ex parte* filings, the SBC/BellSouth proposal would base some carriers' assessments on gross revenues while other carriers would contribute on a per connection basis. The following example illustrates this point:

> Assume that the single-line connection rate is set at $1.00 and the revenue-based surcharge remained at the existing contribution rate of approximately 7%, as proposed by SBC/BellSouth. Now assume Mrs. Jones in Topeka purchases her PIC'd local and interstate services from line-based Carrier A. She also uses a prepaid calling card product that she

[22] *See,* CoSUS Reply Comments dated May 13, 2002 at 25-33. The IPCA supports the legal and policy rationales advanced by CoSUS in its critique of the SBC/BellSouth proposal.

> purchases from dial-around provider B. Each month Mrs. Jones spends $50.00 on calls to Virginia over Carrier A, and $50.00 on calls to Virginia using Carrier B. Under the SBC/Bell South proposal, carrier A, the line-based provider, would only have to collect the monthly per connection contribution of ($1.00) while Carrier B would be required to remit ($3.50) to the fund for calls made by Mrs. Jones.

Dial-around service providers, such as carrier B in the above example, could not absorb these costs and would be forced to pass them through to their customers. In this example, Mrs. Jones would be required to pay $4.50 in universal service charges if she used a dial-around provider, but only $1.00 if she purchased her interstate long distance services from her RBOC, Carrier A.

As demonstrated by the above example, the SBC/BellSouth proposal conflicts with the Commission's competitive neutrality requirement and limits the ability of consumers to choose between providers of like services on a level playing field basis. Also it is inconsistent with the equitable and non-discriminatory standards of Section 254(d). As the above illustration further demonstrates, it is inequitable, discriminatory and not competitively neutral for a consumer to receive multiple universal service assessments because the consumer receives service from more than one provider, while a consumer receiving the same types of service from one provider only receives one lower assessment. The SBC/BellSouth proposal would penalize those customers who choose to use multiple service providers by forcing them to pay multiple and higher universal service fees; in contrast, a customer choosing to purchase the same services from a single ILEC supplier would be subject to a fewer and lower amount of universal charges. In the above example, Mrs. Smith would avoid the number and amount of universal service charges that she would bear merely by switching to her ILEC to obtain the same underlying services that she could otherwise obtain more economically from multiple service providers (e.g., an ILEC and dial-around service provider).

This situation is far from a hypothetical concern. A very high percentage of dial-around usage originates from the home. Customers of dial-around and prepaid calling services often use one provider to access the public switched telephone network in combination with one or more of a PIC'd long distance carrier, dial around service and prepaid calling services in order to obtain the best rates for specific types of calls that fit into their domestic and international calling patterns. Indeed, at a time when the Telecommunications Research Action Center ("TRAC") has detected "an alarming trend toward higher long distance service" (TRAC News Release dated January 28, 2003, attached hereto), TRAC has provided consumers with a cost saving tip that "prepaid calling cards with low per minute rates an no per call surcharges, or dial around numbers (10-10-XXX) are also great tools to use, particularly for casual callers." (TRAC News Release dated January 28, 2003; TRAC's Hot Tips for January 2003). Under the SBC/BellSouth proposal, this type of customer may be assessed four revenue-based universal service charges; in contrast, a consumer obtaining these same services from its ILEC only would be assessed one monthly line-based fee. That proposal, not surprisingly, creates incentives for consumers to purchase all of their services from an ILEC instead of taking advantage of multiple, tailored service offerings available from different providers.

The SBC/BellSouth proposal is, as illustrated above, unfriendly to consumers and prevents them from choosing a lowest cost service provider for a specific service on a level playing field basis. That proposal also would unfairly impact the poorest of telecommunications consumers, who have found prepaid and dial-around service offerings attractive. These consumers would be forced to bear relatively high universal service charges as a result of the revenue-based portion of the SBC/BellSouth proposal. This undue regulatory burden would limit the attractiveness of the very services that have been the most consumer-friendly to these consumers.

2. The SBC/BellSouth Proposal Perpetuates the Burdens and Inefficiencies of the Revenue-Based Assessment Methodology that the Commission Seeks to Avoid

The SBC/BellSouth hybrid proposal should be rejected for the further reason that it causes as well as perpetuates increased transaction costs and other inefficiencies. As noted by the IPCA in its June 14, 2002 *ex parte* comments, this ILEC proposal requires multiple carriers to track and remit universal service assessments, even though the end user in question used the same end user connection. These burdensome administrative requirements can be easily avoided by implementing a per connection charge as proposed by CoSUS. The Commission itself has recognized that adoption of the SBC/BellSouth proposal (or any similar hybrid approach) "would require new regulatory reporting requirements."[23] Because the SBC/BellSouth approach would perpetuate revenue-based reporting, and its acknowledged problems, it should be disfavored.

VI. Telephone Number-Based Assessments

A telephone number-based assessment methodology received some attention in the *ex parte* filings made by AT&T and Ad Hoc in October 2002 and has been made a subject of further inquiry by the Commission.[24] The IPCA opposes the imposition of any type of revenue-based minimum contribution obligation on all providers in conjunction

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[23] *Second Further Notice of Proposed Rulemaking* at ¶91.

with a telephone number-based assessment. As stated above, this minimum contribution is unnecessary as a legal matter, would result in discriminatory and inequitable treatment of some of its members in the marketplace and would retain all of the economic and administrative inefficiencies of revenue-based assessment methods. In this respect, a telephone number-based contribution, grafted together with a revenue-based minimum contribution, would suffer from the same shortcoming as the previously discussed hybrid approaches and revenue-based minimum contribution method.

On a stand-alone basis, a telephone number-based assessment method may have some of the positive attributes of a connection-based methodology and is preferable to the hybrid approaches and the revenue-based minimum contribution approach. However, a further record on the telephone number-based assessment method needs to be developed by its proponents. The IPCA takes no formal position on this alternative at this time, other than as expressed above, and reserves the right to address this alternative during any later phase of this proceeding.

CONCLUSION

For the reasons above, the IPCA recommends that the Commission adopt the connection-based universal service funding mechanism proposed by CoSUS during these proceedings. The Commission should not adopt an assessment methodology that requires a minimum, revenue-based contribution from all carriers; however, if such an approach is adopted, it should not allow the minimum, revenue-based contribution to be offset against a carrier's connection-based contribution and it should not be based upon gross telecommunications revenues (i.e. both wholesale and retail revenues) unless total revenues are calculated net of payments to other carriers for telecommunications services.

Id. at ¶¶96-100.

The Commission should reject hybrid proposals, such as the SBC/BellSouth proposal, that would perpetuate many of the existing problems with the current revenue-based assessment methodology and also violate the principle of competitive neutrality. Additional information of a telephone number-based assessment methodology is needed from its proponents; in no event should that methodology be combined with a revenue-based minimum contribution.

Respectfully submitted,

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